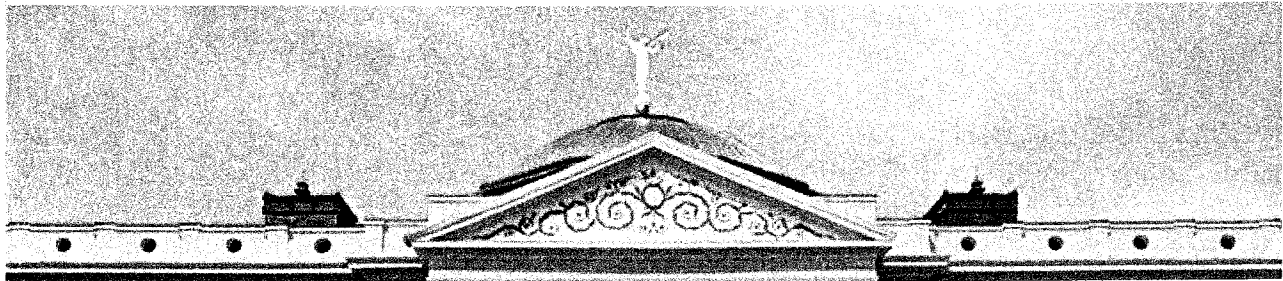


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House Engrossed

**State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010**

HOUSE BILL 2442

AN ACT

**AMENDING TITLE 49, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES,
BY ADDING SECTION 49-117; AMENDING TITLE 49, CHAPTER 1, ARIZONA
REVISED STATUTES, BY ADDING ARTICLE 6; RELATING TO THE REGULATION
OF GREENHOUSE GAS EMISSIONS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 49, chapter 1, article 1, Arizona Revised Statutes, is amended by adding section 49-117, to read:

49-117. Supplemental environmental project; requirements; nexus

A SUPPLEMENTAL ENVIRONMENTAL PROJECT THAT IS INITIATED OR ACCEPTED BY THE DEPARTMENT SHALL COMPLY WITH THIS SECTION, SHALL ADVANCE AT LEAST ONE OF THE OBJECTIVES OF THE ENVIRONMENTAL STATUTES THAT ARE THE BASIS OF THE ENFORCEMENT ACTION AND SHALL HAVE AN ADEQUATE NEXUS. A NEXUS EXISTS ONLY IF ANY OF THE FOLLOWING APPLY. THE PROPOSED PROJECT:

1. IS DESIGNED TO REDUCE THE LIKELIHOOD THAT SIMILAR VIOLATIONS WILL OCCUR IN THE FUTURE.

2. REDUCES THE ADVERSE IMPACT TO PUBLIC HEALTH OR THE ENVIRONMENT TO WHICH THE VIOLATION CONTRIBUTES.

3. REDUCES THE OVERALL RISK TO PUBLIC HEALTH OR THE ENVIRONMENT POTENTIALLY AFFECTED BY THE VIOLATION.

Sec. 2. Title 49, chapter 1, Arizona Revised Statutes, is amended by adding article 6, to read:

ARTICLE 6. REGULATION OF GREENHOUSE GAS EMISSIONS

49-191. Greenhouse gas programs; definition

A. NOTWITHSTANDING ANY OTHER LAW, A STATE AGENCY ESTABLISHED UNDER THIS TITLE OR TITLE 41 SHALL NOT ADOPT OR ENFORCE A STATE OR REGIONAL PROGRAM TO REGULATE THE EMISSION OF GREENHOUSE GAS FOR THE PURPOSES OF ADDRESSING CHANGES IN ATMOSPHERIC TEMPERATURE WITHOUT EXPRESS LEGISLATIVE AUTHORIZATION.

B. FOR THE PURPOSES OF THIS SECTION, "GREENHOUSE GAS" MEANS CARBON DIOXIDE, METHANE, NITROUS OXIDE, SULFUR HEXAFLUORIDE, HYDROFLUOROCARBON OR PERFLUOROCARBON.

Sec. 3. Legislative intent

It is the intent of the legislature that, notwithstanding any other law, any state or regional program to implement a cap and trade system to address greenhouse gas emissions that has been or may be proposed by a state agency established under title 41 or title 49, Arizona Revised Statutes, shall require express legislative authorization following a comprehensive assessment of the state fiscal and other economic, consumer and business impacts of the program. This provision is not intended to impact any other current or future programs adopted in accordance with this title.

BILL STATUS OVERVIEW**HB2442**

SPONSORS: BURGESS P ANTENORI P BARNES P
 GOWAN P LESKO P MONTENEGRO P
 SEEL P STEVENS P WILLIAMS P
 GORMAN P GRAY C P GRAY L P
 HARPER P PEARCE R P ASH C
 BARTO C BIGGS C BOONE C
 COURT C CRUMP C DRIGGS C
 GOODALE C HENDRIX C JONES C
 KAVANAGH C KONOPNICKI C MASON C
 MCCOMISH C MCCLAIN C NICHOLS C
 PRATT C REAGAN C TOBIN C
 WEIERS JP C YARBROUGH C ALLEN S C
 HUPPENTHAL C MELVIN C NELSON C
 VERSCHOOR C

TITLE: greenhouse gas emissions; regulations**HOUSE FIRST READ:** 01/20/10**COMMITTEES: ASSIGNED COMMITTEES ACTION**

Vote Detail 01/20/10 ENV 02/02/10 (5-2-0-1-0) DPA

Vote Detail 01/20/10 RULES 02/08/10 (7-1-0-0-0) C&P

HOUSE SECOND READ: 01/21/10**MAJORITY CAUCUS:** 02/09/10 Y**MINORITY CAUCUS:** 02/09/10 Y**COW ACTION 1: DATE ACTION AYES NAYS NV EXC**

02/15/10 DPA 0 0 0 0

AMENDMENTS

ENV - passed as amended

Floor Amend to ENV - Barnes - passed

THIRD READ: DATE AYES NAYS NV EXC EMER AMEND RFE 2/3 VOTE RESULT

Vote Detail 02/16/10 35 23 1 0 Y PASSED

TRANSMIT TO SENATE: 02/16/10**SENATE FIRST READ:** 02/22/10**SENATE SECOND READ:** 02/23/10**COMMITTEES: ASSIGNED COMMITTEES ACTION**

Vote Detail 02/23/10 NRIPD 03/15/10 (4-2-1-0) DP

02/23/10 RULES 04/05/10 PFC

MAJORITY CAUCUS: 04/13/10 Y**MINORITY CAUCUS:** 04/13/10 Y**CONSENT CALENDAR:** 04/05/10 3:05 PM Object**COW ACTION 1: DATE ACTION AYES NAYS NV EXC**

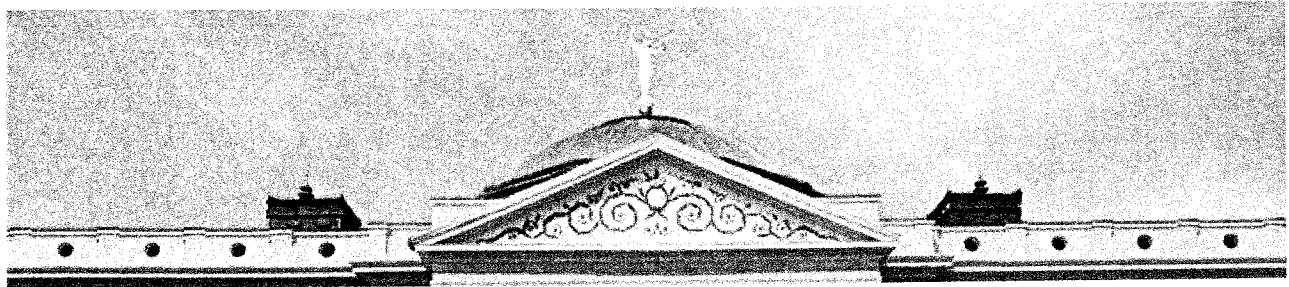

04/15/10 DP 0 0 0 0

THIRD READ: DATE AYES NAYS NV EXC EMER AMEND RFE 2/3 VOTE RESULT

Vote Detail 04/19/10 18 10 2 0 PASSED

TRANSMIT TO HOUSE: 04/20/10**TRANSMITTED TO:** GOVERNOR 04/20/10**ACTION:** SIGNED 04/26/10**CHAPTER:** 152**CHAPTERED VERSION:** House Engrossed Version

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HOUSE OF REPRESENTATIVES**HB 2442**

greenhouse gas emissions; regulations

Sponsors: Representatives Burges, Antenori, Barnes, et al.

DPA Committee on Environment

DPA Caucus and COW

X As Transmitted to Governor

LC 1939

HB 2442 prohibits a state agency from adopting or enforcing a state or regional program to regulate greenhouse gas emissions for the purpose of addressing changes in atmospheric temperature without express legislative authorization.

History

The Environmental Protection Agency (EPA) regulates air quality in the United States. One of the primary tools it uses to regulate air quality is the Clean Air Act (CAA). Under the CAA, EPA regulates air contaminants and delegates responsibility to the states to ensure compliance with controlling the pollutants most commonly associated with degraded air quality. Currently, EPA has identified six pollutants which endanger public health and which cause or contribute to air pollution: carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter and sulfur dioxide. The Arizona Department of Environmental Quality (ADEQ) is the primary agency in the state that has delegated authority from EPA.

According to EPA, greenhouse gases are gases that trap heat in the atmosphere. Some greenhouse gases occur naturally and others are emitted through human activities, such as the burning of fossil fuels. For example, carbon dioxide enters the atmosphere when oil, natural gas or coal is burned, and also as the result of chemical reactions, such as the manufacturing of cement. In addition, methane, nitrous oxide and fluorinated gases are greenhouse gases that are created or emitted through a variety of agricultural, industrial and natural activities.

Provisions

- Prohibits a state agency established under Title 41 or 49 of the Arizona Revised Statutes (A.R.S.) from adopting or enforcing a state or regional program to regulate greenhouse gas emissions for the purpose of addressing changes in atmospheric temperature without express legislative authorization.
- Requires that the state fiscal, economic, consumer and business impacts of any state or regional cap and trade program addressing greenhouse gases first be examined and receive legislative authorization prior to implementation.
- Specifies the legislative intent that the provision is not intended to impact any current or future air quality programs adopted in accordance with Title 49.
- Requires that supplemental environmental projects (SEPs) initiated or accepted by ADEQ advance at least one of the objectives of the environmental statutes that are the basis of the enforcement action and have an adequate nexus.
- Specifies that a nexus between a proposed project and violation exists if any of the following apply:
 - The proposed project is designed to reduce the likelihood that similar violations will occur in the future.
 - The proposed project reduces the adverse impact to public health or the environment to which the violation contributes.